

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**FCSTONE MERCHANT SERVICES,
LLC**

Plaintiff,

V.

**SGR ENERGY, INC., ST SHIPPING &
TRANSPORT PTE LTD, and THOMAS
SAN MIGUEL, individually,**

Defendants.

Civil Action No. 4:20-cv-03693

AGREED MOTION FOR ORDER ENTERING THIRD
AMENDED DISCOVERY SCHEDULE AND TRIAL SETTING

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff, FCStone Merchant Services, LLC (“FMS”) and ST Shipping & Transport PTE LTD (“STS”) (collectively, the “Filing Parties”)¹ file this Agreed Motion for Entry of Third Amended Scheduling Order and Trial Setting, and respectfully states as follows:

1. FMS filed this lawsuit against STS, SGR and TSM (collectively, the “Defendants”) on October 27, 2020. Dkt. No. 1.
2. FMS filed its First Amended Complaint on December 11, 2020. Dkt. No. 14.
3. The Defendants each filed motions to dismiss the First Amended Complaint.
4. The Parties participated in a scheduling conference before Magistrate Judge Frances H. Stacy on April 15, 2021 which set the trial of this matter for November 7, 2022. Dkt. No. 42.

¹ As discussed herein, counsel for SGR Energy, Inc. (“SGR”) and Thomas San Miguel (“TSM”) are parties to pending bankruptcy matters and the Court has entered a Stay as to SGR and TSM.

5. By an Order dated July 14, 2021, this Court denied SGR's Motion to Dismiss, denied in part and granted in part TSM's Motion to Dismiss, and denied in part and granted in part STS's Motion to Dismiss. Dkt. No. 48.

6. FMS filed a Second Amended Complaint on July 30, 2021. Dkt. No. 49.

7. STS filed a Counterclaim against FMS and a Crossclaim against SGR on August 13, 2021. Dkt. No. 51.

8. On September 6, 2022, STS filed a *Notice of Suggestion of Bankruptcy as to Defendant SGR Energy* [Dkt. No. 76], wherein STS advised this Court that SGR filed for Bankruptcy—for the second time² during this lawsuit—in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, styled as *In re SGR Energy, Inc.*, Case No. 22-32050 (Bankr. S.D. Tex. July 22, 2022) (the "Bankruptcy Action").

9. As a result of the Bankruptcy Action and pursuant to Title 11 U.S.C. § 101, this Court entered an order staying this lawsuit on September 9, 2022 (the "Stay") which terminated all pending deadlines. Dkt. No. 77.

10. In response to the Stay, on October 6, 2022, FMS filed an Opposed Motion to Lift the Stay as to STS, which was granted by Court Order on April 27, 2023 (the "Order"). Dkt. Nos. 77, 78, 81.

11. The Order notes that the Bankruptcy Action as to SGR remains pending. The Order further notes that TSM and his wife, Tiffany Dawn San Miguel, have filed for Chapter 7 Bankruptcy, which also remains pending. *In re Thomas and Tiffany San Miguel*, No. 4:22-032820 (Bankr. S.D. Tex. Sep. 27, 2020).

² SGR previously filed Bankruptcy in the Southern District of Texas, Victoria Division as Case No. 21-60090 (CML). Dkt. 61. As a result, this Court entered a stay of the litigation on November 30, 2021. Dkt. No. 61. The November 30, 2021 stay was lifted on February 23, 2022, and the Court entered a new scheduling order setting trial for May 30, 2023. Dkt. 69.

12. Accordingly, the Stay has been lifted only as to STS, and not as to TSM or SGR, both of which are involved in bankruptcy proceedings.

13. Prior to the entry of the Stay, FMS and STS attempted to discuss a potential resolution for this case, which was unsuccessful. Thus, FMS and STS plan to continue discovery in this case, but need additional time to complete discovery matters, including obtaining further discovery from SGR and TSM, and to meet upcoming deadlines.

14. Thus, due to the impact of the Stay on discovery efforts and the Filing Parties' unsuccessful attempts to reach a settlement, the Filing Parties respectfully seek the entry of an order entering the Third Amended Scheduling Order with new deadlines, attached hereto as **Exhibit A**.

15. The entry of a Third Amended Scheduling Order will allow the Filing Parties to complete additional discovery, conduct depositions, present motions, and prepare for trial.

16. This Motion for Entry of a Third Amended Scheduling Order is not sought for purposes of delay, but so that justice may be done.

WHEREFORE, PREMISES CONSIDERED, the Filing Parties respectfully request that this Court enter the Third Amended Scheduling Order attached hereto as **Exhibit A**.

Dated this 24th day of May, 2023

Respectfully submitted,

/s/ Yasser A. Madriz

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2023, a true and correct copy of the foregoing document was served via ECF on all counsel of record.

/s/ Yasser A. Madriz

Yasser A. Madriz